In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Revision No.1304 of 2007

.....

Date of decision:9.8.2007

Surjit Singh alias Sarabjit Singh and others

.....Petitioners

v.

State of Punjab

.....Respondent

....

Present: Mr. P.S. Jammu, Advocate for the petitioners.

Mr. I.P.S. Sidhu, Senior Deputy Advocate General, Punjab
for the respondent-State.

.....

S.S. Saron, J. (Oral)

This criminal revision petition has been filed against the order dated 9.7.2007 framing charge against the petitioner. The said order is assailed to the extent that charge for the offence punishable under Section 326 IPC has been framed against the petitioners.

Learned counsel for the petitioners has submitted that a reading of the FIR would show that the injury which has been suffered by Gopal Singh injured on the middle finger and which has been described as grievous is not attributed to any of the petitioners. It is submitted that a reading of the FIR would show that the said injury on the middle finger was suffered by Gopal Singh when he fell down on broken glass which was lying on the road and caused injury to the finger on the right hand. Therefore, it is submitted that the charge under Section 326 IPC is liable to

be dropped.

I have given my thoughtful consideration to the matter. It may be noticed that a reading of the statement of Gopal Singh complainant on the basis of which FIR has been registered would show that he was going to the fields situated near his house. Surjit Singh (petitioner No.1) armed with Gandasa, Beant Singh (petitioner No.2) empty handed, Jaswant Singh (petitioner No.3) empty handed, Savinder Singh alias Beeta Singh (petitioner No.4) armed with iron pipe, Hardeep Singh alias Gora (petitioner No.5) armed with bamboo stick were standing on the way. When he crossed them, then Jaswant Singh (petitioner No.3) raised a `Lalkara' that Gopal Singh be caught hold of and not spared. On the asking of Jaswant Singh, Beant Singh (petitioner No.2) caught hold of Gopal Singh and threw him on the ground. Then Beeta Singh (petitioner No.4), Gora (petitioner No.5) and Surjit Singh (petitioner No.1) started giving blows to him with their respective weapons which hit on the back side shoulder on the lower side of his back which caused internal injuries to him. It is then that the injured Gopal Singh fell down on the broken glass which was lying on the road and wounded his finger. Therefore, the injury that has been suffered by Gopal Singh is prima facie an outcome of the fight which resulted in his fall. At this stage, it cannot be said that an offence under Section 326 IPC is not made out. This is a matter to be gone into by the learned trial Court after evidence has been led.

In the circumstances, there is no error of jurisdiction in the framing of charge for the offence under Section 326 IPC in addition to the other offences that have been mentioned in the order dated 9.7.2007 passed by the learned Judicial Magistrate Ist Class, Moga.

Consequently, there is no merit in this petition and the same is accordingly dismissed.

Nothing observed herein shall be construed as an expression on the merits of the case.

August 9, 2007. **(S.S. Saron)**
Judge

hsp